



Offaly County Council

Anti-Social Behaviour Strategy 2015

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1. Introduction

Offaly Local Authorities Mission Statement is “To improve the quality of life for people in Offaly”. In order to achieve this objective it is essential that anti-social behaviour problems encountered by residents are tackled in an effective manner.

A Policy Document on Anti-Social Behaviour was adopted by Offaly Local Authorities on 21st March 2005 and a revised Anti-Social Behaviour Policy was adopted by the Council on 15th September 2008 and revised and adopted again on the 18th of October 2010.

Section 35 of the Housing (Miscellaneous Provisions) Act 2009 now formalises the adoption of such strategies by requiring each housing authority, by reserved function, to adopt an anti-social behaviour strategy for the prevention and reduction of anti - social behaviour in its housing stock. The intention behind this formalisation of practice is to provide a common framework for action that will facilitate co-operation between relevant bodies, putting in place clear and transparent procedures for the making of complaints and initiatives for the prevention and reduction of anti-social behaviour.

Housing authorities must adopt an anti-social behaviour strategy and set out measures to promote good estate management and co-operation with other bodies, such as the Gardai, that have a role to play in combating anti-social behaviour.

The local authority recognises and accepts that anti-social behaviour in local authority estates is unacceptable as it can have an adverse effect on the quality of life of both the victims in question and the other residents of the area. Accordingly it is the policy of Offaly Local Authorities that anti-social behaviour will not be tolerated and whatever means necessary to combat this issue will be fully utilised.

The drawing up and adoption of, and amendment of, an antisocial behaviour strategy is not to be taken to confer on any person a right in law that the person would not otherwise have to require a housing authority in a particular case to exercise any function conferred on it under the Act of 1997 or under the 2009 Act and the Housing (Miscellaneous Provisions) Act 2014 or to seek damages for a housing authority’s failure to perform any such function.

2. Objectives of Strategy Statement

Objectives

The principal objectives of this Strategy are set out in subsection 2 of the Housing Act 2009, and part 2 of the Housing Miscellaneous Provisions Act 2014 as follows:

- (a) The prevention and reduction of anti-social behaviour
- (b) the co-ordination of services within the housing authority that are directed at dealing with, preventing or reducing anti-social behaviour
- (c) the promotion of co-operation with other persons / bodies, including An Garda Síochána, in the performance of their respective functions in relation to preventing / reducing anti-social behaviour, in order to avoid or reduce duplication of effort between the housing authority and the other person / body in performing their functions; and
- (d) the promotion of good estate management (as defined by section 1 of the 1997 Act)

3. Strategies to Achieve Objectives

- **Tenancy Agreement – Enforcement of conditions.** The Tenancy Agreement contains clauses outlining the responsibility of tenants in the area of anti-social behaviour. Under the Housing Act 2009 **and the Housing (Miscellaneous Provisions) Act 2014** the Tenancy Agreement now includes terms and conditions relating to anti-social behaviour carried out by tenants or members of their household as well as the provisions relating to the prohibition of and consequences of allowing persons against whom there is an excluding order in force, in relation to a dwelling, to enter that dwelling.
- **Legislation.** Enforcement of relevant legislation as required. The Council's authority to deal with anti-social behaviour is principally derived from the Housing Acts 1966-2009, and the Housing (Miscellaneous Provisions) Act 2014 Freedom of Information Act 1997 and the Residential Tenancies Act 2004.
- **Partnership.** Establish formal links with the An Garda Síochána and other relevant statutory and voluntary agencies such as the Health Services Executive and other housing authorities so that information can be shared and a co-ordinated response to tackling anti-social behaviour can be developed. The Council will also implement the objectives of the Offaly Local Anti Poverty Strategy to tackle poverty, unemployment and social exclusion.
- **Design.** To develop consultation between architects and internal design staff of the Council in the design of new housing schemes and the refurbishment of estates in order to eliminate housing design which leads to anti-social behaviour, such as problem alleyways and unsupervised public space. Where necessary, to work jointly with relevant staff within other departments of Offaly Local Authorities such as Environment, Planning, Roads, etc to target problem areas. Implement policies designed to increase social mix in housing estates, with mixed housing types. A 10% social mix will be allowed to provide for good estate management in line with Offaly County Councils scheme of letting priorities.
- **Education.** Offaly Local Authorities will inform tenants on an ongoing basis of its policies and procedures in relation to anti - social behaviour through various means, including pre-tenancy information sessions, explanatory leaflets and the Council website. Participation is compulsory to attend pre-tenancy information sessions for all new Council tenants. The Council will identify and assist in the development of research which increases awareness of the nature of social housing problems and potential solutions.
- **Estate Management.** Offaly Local Authorities will Continue to develop the role of estate management and promote greater resident involvement in the management and development of their estates. A minimum of 10% of all new developments will be set aside for the categories of Homeless, Elderly, Single applicants and applicants with special needs requiring a purpose built dwelling to suit their needs.

Such allocations will be made in line with the policy objectives contained in the council's multi-annual programme for Social and Affordable Housing and taking into account the achievement of social integration and a good social mix.

- **Consultation.** This Strategy has been produced following consultation with the Joint Policing Committee, An Garda Síochána, the Health Service Executive, Drugs Task Force, and Residents Associations and approved Voluntary Housing Bodies in Offaly. The Council will continue to consult with these bodies on broad policy terms and on individual cases as they arise.
- **Compatibility.** The Strategy is compatible with national and Council policies and legislation, including:
 - ❖ Housing Services Plan
 - ❖ Offaly Scheme of Letting Priorities 2013
 - ❖ Offaly Estate Management Policy 2009
 - ❖ Offaly Homeless Action Plan 2008 (and Midlands Regional Homeless Action Plan 2010 – 2013)
 - ❖ Offaly County Development Plan 2009 - 2015
 - ❖ s.37 Garda Síochána Act 2005 – the Local Authority in performing its functions takes steps to reduce crime disorder and anti-social behaviour
 - ❖ Delivering Homes Sustaining Communities 2007.

4. Legislative Provisions

Offaly Local Authorities may take legal action against tenants engaged in anti-social behaviour by:

(1) enforcing the conditions of the Tenancy Agreement or

(2) through legal action using the following legislation:

- Housing (Miscellaneous Provisions) Act 2014
- Housing Act 1966 (as amended)
- Housing (Miscellaneous Provisions) Act 1997
- Housing (Miscellaneous Provisions) Act 2009
- Housing (Traveller Accommodation) Act 1998
- Freedom of Information Act 1997
- The Residential Tenancies Act 2004

A summary of the legislation available to Offaly Local Authorities in dealing with anti-social behaviour including additional legislation under the new 2014 Act is as follows:

- **Housing (Miscellaneous Provisions) Act 1997**

This Act provides a range of measures for local authorities to address problems arising due to drug dealing and anti-social behaviour.

Under the Housing Act 2009 an amendment was made to the definition of anti-social behaviour outlined in section 1 of the 1997 Housing Act.

Anti-social behaviour (ASB) is defined in section 1 of the 1997 Act (as amended by section 197(a) (i) of the Residential Tenancies Act 2004) and can be broken down into two distinct parts. The first part, which is not affected by the 2009 Act, is that ASB is defined as:

- "(a) the manufacture, production, preparation, importation, exportation, sale, supply possession for the purposes of sale or supply, or distribution of a controlled drug (within the meaning of the Misuse of Drugs Acts 1977 and 1984".

The second part of the definition has been expanded by section 1(a) of Part 5 of Schedule 2 to the 2009 Act to read as follows:

”any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, alarm, loss or fear to any person living, working or otherwise lawfully in or in the vicinity of a house provided by a housing authority under the Housing Acts 1966 to 2002 or Part V of the Planning and Development Act 2000, or a housing estate in which the house is situated or a site and, without prejudice to the foregoing, includes

- (i) violence, threats, intimidation, coercion, harassment or serious obstruction of any person,
- (ii) behaviour which causes any significant or persistent impairment of a person’s use or enjoyment of his or her home, or
- (iii) damage to or defacement by writing or other marks of any property, including a person’s home.”

This amendment to the definition of anti-social behaviour has been made to align housing legislation with the Criminal Justice Act 2006, relating to anti-social behaviour by adults, and with the Children Act 2001 (as amended), relating to anti-social behaviour by children.

- **Information on housing applicants**

This section allows Offaly Local Authorities to access information from other housing authorities or statutory bodies in respect of a housing applicant or person looking to reside in a Council property who may have been involved in anti-social behaviour. Information provided to the local authority by the Gardai must be subject to absolute confidentiality.

Where a housing applicant has been convicted of anti-social behaviour he / she will be taken off the housing waiting list for two years and this situation will be reviewed when the two years has lapsed.

The Housing Act 2009 extends the scope of Section 15 to cover:

- occupants of, or applicants for, sites for travellers;
- tenants of, or applicants for, accommodation provided by approved bodies; and
- applicants for, or beneficiaries of, housing support under existing affordable housing schemes.
- tenants of, or applicants for, accommodation under a rental accommodation availability agreement [RAS].
- applicants for, or beneficiaries of, housing support under the Incremental Purchase Scheme;
- applicants for, or beneficiaries of, housing support under the Tenant Purchase of Apartments Scheme; and
- applicants for, or beneficiaries of, housing support under the new affordable dwelling purchase arrangements.

- **The Tenancy Agreement**

The tenancy agreement contains the following clause in relation to anti-social behaviour:

- No 22 (a) Neither the tenant nor any member of his / her household or any household or any subtenant or visitor shall cause any nuisance or be guilty of or permit any conduct likely to cause annoyance or disturbance to any neighbours, their children or visitors or Council staff as more particularly outlined in paragraph 26 hereunder.
- (b) The term “neighbours” in this Agreement means persons living or working in the vicinity of the tenant’s dwelling.
- (c) For the purposes of this Agreement the phrase “nuisance, annoyance or disturbance” shall include the use by the tenant of the dwelling for the commission of a criminal offence and without prejudice to the generality of this expression shall include all or any of the following:-
- (i) harassment;
 - (ii) violence or threats of violence against the person or property;
 - (iii) threats, abuse or harassment of any kind or any act or omission causing disturbance, discomfort or inconvenience;
 - (iv) obstructions of any of the common areas, doorways and other exits and entrances in the block and in the estate;
 - (v) making an unreasonably loud noise by shouting, screaming, playing any musical instruments or sound reproduction equipment (including television, radio and hi-fi) or using other machinery;
 - (vi) any act or omission which creates a danger to the well-being of any neighbour or to his/her belongings;
 - (vii) the tenant must not, at any time, invite or allow to remain on any part of the dwelling or garden, any persons in respect of whom the Council has notified the tenant that they should not enter or remain on the property;
 - (viii) a tenant evicted for a breach of this condition or part of it or any condition will be deemed for the purpose of re-housing to have deliberately rendered himself / herself homeless within the meaning of Section 11 (2) (b) of the Housing Act 1988 and may not be provided with another home by the Council until such time as the Council is satisfied that the evicted tenant and his / her family are capable of living and are agreeable to live in the community without causing a further breach of this condition or any other condition of this agreement;
 - (ix) The unlawful possession, cultivation, use and or supply of a controlled substance within the meaning of the Drugs Act, 1977 as amended.

Housing (Traveller Accommodation) Act 1998

This Act extends to halting sites the powers available to local authorities under the Housing (Miscellaneous Provisions) Act, 1997, relating to anti-social behaviour and estate management.

- **Freedom of Information Act 1997**

Section 26 of the Freedom of Information Act 1997 requires public bodies to refuse to disclose information which has been given to them in confidence.

- **Residential Tenancies Act 2004 – Section 197**

The power of seeking an excluding order or an interim excluding order from the District Court has been extended to persons (other than the owner) residing with Tenant

Purchasers and with anyone to whom the house is subsequently vested. Offaly Local Authorities are also empowered to refuse to lease or sell a house under the Shared Ownership Scheme and Affordable Housing Schemes, where they consider that the applicant is or has been engaged in anti-social behaviour.

- **Illegal Occupiers of Council house involved in Anti-Social Behaviour**

The Gardaí Síochána may remove squatters who are engaging in or have engaged in anti-social behaviour from Offaly Local Authorities houses. Non-compliance with a Garda's direction is an arrestable offence. There are also various powers of search and entry available to An Garda Síochána.

- **Housing (Miscellaneous Provisions) Act 2014**

The Housing (Miscellaneous Provisions) Act 2014 ("the 2014 Act") amends and extends the Housing Acts 1966 to 2009. This includes the following:

Replacement provisions for section 62 of the Housing Act 1966 ("the 1966 Act") that provide for a revised procedure for repossessing local authority dwellings and provisions strengthening the power of housing authorities to secure court orders excluding individuals engaged in anti-social behavior from local authority housing and estates (Part 2)

In order to strengthen the protections for tenants and underpin the integrity of the overall repossession procedure, sections 7 to 9 of the 2014 Act provide that a housing authority may issue a tenancy warning to a tenant in respect of an alleged breach of a tenancy agreement or rescheduling arrangements in respect of rent arrears. The warning is issued to the tenant because, under the tenancy agreement, he or she is responsible for ensuring that the terms of the agreement are complied with by all household members. A tenancy warning is subject to review by the council on application by the tenant.

- **Tenancy warning relating to anti-social behaviour - Section 7 of 2014 Act**

This enactment provides for the issuing by a housing authority of a tenancy warning, to a tenant, where he or she, or a household member, has, in the authority's opinion, breached a Term of the tenancy agreement that prohibits or is aimed at preventing anti-social behavior.

Subsection (1) defines the expression 'specified term' used in section 7 to mean a term of a tenancy agreement that prohibits:

(a) anti-social behaviour,

(b) nuisance or conduct likely to cause annoyance or disturbance to neighbours,

(c) the tenant from knowingly permitting a person to enter a dwelling against whom an excluding order or an interim excluding order is in force with regard to that dwelling.

Subsection (2) provides for the issue by a housing authority of a tenancy warning to a tenant, where the tenant or a member of his or her household has breached a specified term of the agreement.

Subsection (3) provides that, subject to protecting – in accordance with subsection (5) - the identity of persons providing evidence of a breach of a specified term, the tenancy warning shall set out the basis for the warning and other relevant details.

- **Review of tenancy warning - Section 10 of 2014 Act**

This section provides, on request by the tenant where he or she does not accept that a breach of the tenancy agreement or rent-related obligation has occurred in the terms set out in a tenancy warning, for an internal review by a housing authority of a tenancy warning issued under section 7, 8 or 9. A review request must normally be made within 10 working days of the issue of the warning outlining the grounds for the request and indicating whether the tenant or a household member wishes to make oral representations (subsections (3) and (4)). Subsection (5) provides that the Minister may prescribe types of extenuating

circumstances wherein the chief executive of the local authority will have discretion to extend the 10 working day limit for receipt of review request but the extended period may not exceed 20 working days from the date of issue of the warning.

- **When tenancy warning comes into effect - Section 11 of 2014 Act**

This section provides that a tenancy warning comes into effect on the second working day after the expiration of the period within which a review request could be received (subsection (1)). A tenancy warning that is reviewed comes into effect on the second working day after the reviewer's decision is sent to the tenant, except where the tenancy warning is annulled (subsection (2)).

Where a review request is withdrawn by the tenant and the reviewer does not decide to continue with the review, subsection (3) provides that the tenancy warning shall come into effect on whichever of the following days last occurs: on the second working day after the period within which a review request could be received; or on the second working day after the tenant notifies the housing authority that he or she is withdrawing the review request.

- **Proceedings for possession of a local authority dwelling - Section 12 of 2014 Act**

Subsections (1) and (3) of this enactment empower a housing authority, in the case of a breach of the tenancy agreement or a rent-related obligation, to apply to the District Court for an order for possession of the dwelling, stating the grounds on which the application is being made and, at the authority's discretion, including information on oath by an official of the authority. Generally speaking, the housing authority must give the tenant at least 10 working days' notice of the Court hearing of its possession application but, in a case where the breach of the tenancy agreement had or is having a significant or persistent detrimental effect on the quality of life of those in the locality of the dwelling, the authority must give a copy of the possession application to the tenant not later than the time it applies to the court for the possession order. Subsection (2) provides that a housing authority may make a possession application in respect of a dwelling where the tenant is in breach of the terms of his/her tenancy agreement even in a case where a tenancy warning relating to a breach that is similar to the breach to which the possession application relates is under review.

- **Intimidation section 19 of the 2014 Act**

A person commits an offence if he or she causes or attempts to cause any threat, intimidation or harassment, coerces, obstructs, impedes, or interferes with an officer or employee of a housing authority in respect of the exercise of a function of the authority by such officer, or a member of the family or household of such an officer or employee in contemplation or as a consequence of the exercise of functions of the housing authority by the officer or employee, or any person who provides or is to provide evidence in any proceedings under this Act or Part 2 of the Housing (Miscellaneous Provisions) Act 2014. A person who commits an offence under this section is liable on summary conviction to a class A fine or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or both.

- **Excluding Orders - Section 19 of 2014 Act**

This now includes provisions for strengthening the power of housing authorities to secure court orders excluding individuals engaged in anti-social behaviour from local authority housing and estates. Among the amendments made to the Housing (Miscellaneous Provisions) Act 1997 by section 19 are removal of the obligation on a housing authority to consult the tenant or tenant purchaser and the Health Service Executive before applying for an excluding order and the introduction of a distinction between the type of excluding order that a court make in respect of adults and persons aged between 12 and 17 years and the penalties that apply for convictions of both categories of person for breaching such orders.

5. Policy on Prevention & Reduction of Anti-Social Behaviour

Preventative Measures

The most efficient way of combating anti-social behaviour is to prevent it from arising in the first place. Offaly Local Authorities will use the following measures to achieve this objective:-

- **Pre Tenancy Information Sessions:** All tenants must complete a pre-tenancy information session, delivered by housing staff, prior to the allocation of their tenancy. The pre-tenancy information session places particular emphasis on tenant's obligations to their houses and to their community, the need to respect their neighbours and their property and on tenant's responsibility for the behaviour of their children and visitors. The information will encourage tenants to act in a positive manner in the community and on the need to prevent anti-social behaviour.
- **Design.** Ensure that the design of new dwellings, estates and halting sites does not facilitate vandalism and crime. The Council works closely with the local Crime Prevention Officer in An Garda Síochána to ensure that all new designs incorporate security and anti-crime design features.
- **Estate Management.** Promote the development of Residents Associations and good Estate Management. Section 1 of the Housing (Miscellaneous Provisions) Act 1997 defines Estate Management as "(a) the securing or promotion of the interests of any tenants, lessees, owners or occupiers, whether individually or generally, in the enjoyment of any house, building, or land provided by a housing authority under the Housing Acts 1966 to 1997 (b) the avoidance, prevention or abatement of anti-social behaviour in any housing estate in which is situated a house provided by a housing authority under the Housing Acts 1966 to 1997".
- **Tenant Participation.** Tenant Participation has been highlighted by the National Anti Poverty Strategy as a route to alleviating social exclusion. Participation in community initiatives such as Neighbourhood Watch, Community Alert, arts, sports and play projects will be fully encouraged and supported by the Council. The Council will ensure that proper procedures, structures and channels of communication are in place for tenants to report issues relating to anti-social behaviour at an early stage.
- **Tenant Consultation.** Where refurbishment or regeneration programmes in existing estates or sites are planned, tenants will be fully consulted and involved through their estate management forum on issues of security and crime prevention.
- **Training.** Appropriate training and back-up support will be provided to housing staff and other front line staff to enable them to do the job effectively.
- **Mixed Tenure.** The Council will seek to ensure a strategic balance and mix of tenants in so far as is practicable to encourage social integration and minimise the potential for anti-social behaviour. A minimum of 10% of a social mix will be allowed to provide for good estate management.

Reduction Measures

- Complaints will be dealt with efficiently and effectively and the Council will ensure that detailed and accurate records of all incidents and complaints are maintained in a proper manner to facilitate potential court actions.
- The Council will take appropriate action following reported breaches of the terms of the Tenancy Agreement and will use the provisions available under current legislation as outlined above.
- The Council will maintain a close working relationship with An Garda Síochána to ensure that anti-social behaviour is reported by the local community and appropriate follow-up action taken.
- Support initiatives such as Joint Policing Committees, Community Policing, Juvenile Diversion Programmes, interagency bodies and the work of the Probation & Welfare Services.
- Case conferences will be organised with other statutory agencies and bodies such as the HSE in relation to families in local authority estates involved in anti-social behaviour and with known social issues such as drugs, alcohol abuse or family breakdown, with a view to having the appropriate support services made available to these families by the relevant agencies.
- We will ensure that all dealings with the victims of anti-social behaviour are treated in the strictest of confidence.
- Court proceedings will only be instigated when all other options for combating anti-social behaviour have failed or are deemed inappropriate.
- Vetting of housing applicants. The Council will make enquiries in relation to any prior involvement in anti-social behaviour by all housing applicants (including applicants referred under the Rental Accommodation Scheme) prior to allocation of housing in accordance with Section 15 of the Housing (Miscellaneous Provisions) Act 1997. Such enquiries will normally be made to the local Gardaí in any area in which the person currently resides or has previously resided. Mutual Exchange applicants will also be vetted.
- In accordance with Section 14 of the 1997 Act, the Council may refuse or defer the letting of dwellings to applicants who have been involved in anti-social behaviour (this is incorporated in the Scheme of Letting Priorities 2010). An applicant who has been convicted or involved in anti-social behaviour may be excluded from the possibility of being housed by the Council for at least two years. The position will be reviewed at the end of the two year period.
- Where Offaly Local Authorities becomes aware that an existing tenant has been convicted for anti-social behaviour, we will seek legal advice with a view to evicting / excluding the tenant involved.
- The Council will refuse to sell a dwelling to a tenant who is or has been involved in anti-social behaviour or where the sale is not considered to be in the interests of good estate management.

6. Complaints Procedure – Investigating a Compliant

- An investigation into all complaints received will commence within 10 working days of receipt and action will be taken as early as possible following completion of the investigation. It is important that early action is taken to reduce the negative behaviour and to ensure confidence in the process by all parties involved.
- The tenancy file of the alleged perpetrator will be checked to ascertain if any previous complaints have been made or for any other matter that may be pertinent to the investigation.
- If additional information is required from the complainant, the Community Liaison Officers will arrange a meeting at a location suitable to the complainant. A written record of events / complaints is the preferred option, particularly if the issue in question is ongoing.
- As much independent evidence as possible will be obtained and verified in so far as is practicable.
- Additional information will be requested from other statutory agencies such as An Garda Síochána and the HSE that may be of relevance to the investigation.
- Consultation with a Tenants / Residents Associations may take place where a properly established representative estate management forum is in operation. However the local authority will be mindful of the fact that not all committees / associations are fully inclusive and therefore may not represent the views of the community as a whole. All such consultation will be conducted in general terms and specific details of incidents or alleged perpetrators will not be disclosed in the interests of confidentiality, safety and security of both the complainant and alleged perpetrator.
- The possibility of complaints being vexatious or maliciously motivated will be borne in mind at all times.
- As part of the investigations the Community Liaison Officer will determine that the complaint is bona-fide and if it warrants an ASB interview the alleged perpetrator may then be interviewed by the Community Liaison Officer / Housing staff. Details of the allegations made will be outlined to them and they will be given an opportunity to tell their side of the story. A standard interview form for recording the proceedings of the meeting will be used.
- Communications with all parties will be conducted in an objective and impartial manner at all times.

7. Follow-Up Action & Response to Anti-Social Behaviour

In accordance with section 7.1 of the 2014 Housing miscellaneous provisions Act, a tenancy warning can be issued to a tenant, where he or she, or a household member, has, in the authority's opinion, breached a term of the tenancy agreement that prohibits or is aimed at preventing anti-social behaviour. A tenancy warning shall be served on the tenant, either at the dwelling or otherwise, or, in his or her absence from the dwelling, on such other person at the dwelling as may be prescribed for the purpose.

The tenancy warning shall set out the basis for the warning and other relevant details as follows: The warning notice must specify the tenancy term that has been breached, the nature and occasion of the breach, the name of the household member who caused the breach (if known), and, in appropriate cases, the detrimental effects of the breach on the quality of life of the local community;

The warning notice will require the tenant to ensure that the person who breached the specified term ceases or does not repeat certain actions or takes specified actions to prevent the breach from recurring or continuing;

The warning notice must advise the tenant that, if the breach continues or reoccurs within 12 months of the tenancy warning coming into effect, the housing authority may proceed to apply for a possession order under section 12 of the Act or may seek an excluding order against the person concerned.

Subsections (1) and (3) of this enactment empowers a housing authority, in the case of a breach of the tenancy agreement or a rent-related obligation, to apply to the District Court for an order for possession of the dwelling, stating the grounds on which the application is being made and, at the authority's discretion, including information on oath by an official of the authority. Generally speaking, the housing authority must give the tenant at least 10 working days' notice of the Court hearing of its possession application but, in a case where the breach of the tenancy agreement had or is having a significant or persistent detrimental effect on the quality of life of those in the locality of the dwelling, the authority must give a copy of the possession application to the tenant not later than the time it applies to the court for the possession order. Subsection (2) provides that a housing authority may make a possession application in respect of a dwelling where the tenant is in breach of the terms of his/her tenancy agreement even in a case where a tenancy warning relating to a breach that is similar to the breach to which the possession application relates is under review.

On request by the tenant where he or she does not accept that a breach of the tenancy agreement or rent-related obligation has occurred in the terms set out in a tenancy warning, the tenant may request an internal review by a housing authority of a tenancy warning issued under section 7, 8 or 9. A review request must normally be made within 10 working days of the issue of the warning outlining the grounds for the request and indicating whether the tenant or a household member wishes to make oral representations.

Paragraph (a) of subsection (4) substitutes a new subsection for section 3(2) of the 1997 Act, which has the effects of (a) removing the obligation on a housing authority to consult the tenant or tenant purchaser and the Health Service Executive before applying for an excluding order, and (b) empowering a council to seek an excluding order against a joint tenant. Paragraph (b) inserts a new subsection (2A) into section 3 of the 1997 Act, providing that an excluding order may not be sought against a person under 12 years of age.

A new subsection is substituted for section 3(3) of the 1997 Act, the effect of which is that an excluding order under the section cannot exclude a person under 18 years of age from his or her home but may exclude such a person from entering or being in the vicinity of any other specified house or a specified place or area where the housing authority controls or

manages one or more than one house, and may exclude a person under 18 years of age who is not living in the house concerned from entering or being in the vicinity of that house or any other specified house or a specified place or area where the housing authority controls or manages one or more than one house.

It will be the policy of the local authorities to keep all information obtained in relation to anti-social behaviour in a secure place to which only the designated staff involved in the process will have access.

Non-Legal Action

Where a statutory tenancy warning is not being issued to a tenant the following action may be taken in dealing with such anti-social behaviour complaints. A recommendation will be made to an Administrative Officer to take the appropriate action. It is desirable that situations will be resolved using non-legal mechanisms where possible. Such action could include one or more of the following:

- Reaching written agreement with the perpetrator and putting in place appropriate monitoring mechanism for compliance
- Bring in other agencies to provide necessary supports identified during the investigation process (e.g. HSE)
- Engagement of mediation services
- Transferring of either victim or perpetrator to another dwelling in exceptional circumstances

8. APPENDICE A - Legislative Additions from 2014 Act

Section 7.(1- 5) Tenancy warning relating to anti-social behaviour, etc.

Section 10.(1-15) Review of tenancy warning

Section 11.(1-3) When that tenancy warning comes into effect

Section 12.(1-16) Proceedings for possession of local authority dwelling

Section 18.(1-2) *Part 2* and amendment of Principal Act - notice

Section 19.(1) *Part 2* and amendment of Act of 1997- replacement of definitions

Section 19.(3) *Part 2* and amendment of Principal Act -replacement of section 62

Section 19.(4-9) Excluding orders

Section 19.(10) Authorisation to occupy caravan on site

Section 19.(11) Intimidation

Section 19.(12) Evidence

Section 20. *Part 2* amendment of Act of 2009- revision of existing tenancy agreements

Tenancy Warning relating to anti-social behaviour

S.7. (1) In this section “specified term” means a term of a tenancy agreement that prohibits—

- (a) anti-social behaviour,
- (b) nuisance or conduct likely to cause annoyance or disturbance to neighbours, or
- (c) the tenant from knowingly permitting a person, against whom an excluding order under section 3 of the Act of 1997 or an interim excluding order under section 4 of that Act is in force in respect of the dwelling concerned, to enter the dwelling in breach of the excluding order or interim excluding order, as the case may be.

2. A housing authority may issue a tenancy warning under this section to a tenant where, in the opinion of the authority, the tenant or a member of his or her household has breached a specified term of the tenancy agreement.

3. A tenancy warning issued under this section shall, subject to *subsection (5)*, set out the basis for its issue and the reason for its issue and for those purposes shall

(i) the specified term or specified terms that has or have, in the housing authority’s opinion, been breached,

(ii) the nature of that breach, including the name of the household member (if that name is readily available to the housing authority) who caused that breach, the occasion of the breach and, where relevant, the significant or persistent detrimental effect of the breach on the quality of life of those in the locality of the dwelling to which the tenancy agreement relates,

(b) require the tenant to ensure that the household member who caused that breach—

(i) ceases or does not repeat specified actions, or

(ii) undertakes specified actions,

in order to prevent the detrimental effect of the breach from recurring or continuing,

(c) indicate that, if the breach continues during, or is repeated within, 12 months of the tenancy warning coming into effect, then the authority may either—

(i) apply under section 12 to recover possession of the dwelling, or

(ii) where appropriate, apply to the District Court (under section 3 of the Act of 1997) for an excluding order against the household member who caused that breach,

(d) indicate that the housing authority may, during the period of 3 years following a tenancy warning coming into effect, take the tenancy warning into account when considering whether—

(i) to consent, under subsection (12) of section 90 of the Principal Act, to a sale of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term, where the grounds for refusal would be those set out in subparagraph

(ii) to consent, under subsection (3) of section 48 of the Act of 2009, to a sale, during the charged period, of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term, where the grounds for refusal would be those set out in paragraph (b) of that subsection,

(iii) to consent, under subsection (4) of section 76 of the Act of 2009, to a sale, during the charged period, of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term or specified terms, where the grounds for refusal would be those set out in paragraph (b) of that subsection,

(iv) to consent, under *subsection (3) of section 29*, to a sale, during the charged period, of a house to the person identified in the tenancy warning as causing the breach of the specified term or specified terms, where the grounds for refusal would be those set out in *paragraph (b)* of that subsection,

(v) to refuse, under section 14(2) of the Act of 1997, to sell a dwelling to—

(I) the tenant (within the meaning of Part 4 of the Act of 2009 or to whom *Part 3* applies) concerned,

(II) the eligible household (within the meaning of Part 3 or 5 of the Act of 2009) concerned,

(III) the person concerned (in a case to which section 90 of the Principal Act relates), or

(vi) to refuse, under section 14(1) of the Act of 1997, to allocate a dwelling, or to defer the allocation of it, to the tenant or to the household member identified in the tenancy warning as causing the breach of the specified term, and

(e) set out the tenant's right, under [section 10](#), to request a review of the tenancy warning.

4. A tenancy warning shall be served on the tenant (either at the dwelling concerned or otherwise) or, in his or her absence from the dwelling, on such other person at the dwelling as may be prescribed or, if the housing authority has attempted to but has not been able to so serve, by so serving subsequently or by serving in such other manner as may be prescribed.

5. In setting out the basis for a tenancy warning under this section, a housing authority shall have due regard to protecting the identity of persons informing it of the breach of the specified term in circumstances where, in the opinion of the authority, not to do so—

(a) could render those persons, or persons associated with them, liable to violence, threat or fear as a consequence of so informing, or

(b) might otherwise have prevented those persons from so informing because of such violence, threat or fear.

S.10. (1) Review of tenancy warning

This section applies where a tenant does not accept that a breach of a tenancy agreement or rent-related obligation has occurred in the terms set out in a tenancy warning issued to him or her under [section 7](#) , [8](#) or [9](#) .

2. A tenant may request in writing (in this section referred to as a “review request”) a housing authority to review a tenancy warning issued to him or her.

3. A review request shall—

(a) outline the grounds upon which the tenant disputes the basis for the tenancy warning and be accompanied by any relevant supporting documents, and

(b) state whether the tenant or a member of his or her household wishes to make oral representations to the housing authority as part of the review.

4. Subject to subsection (5), a review request shall be received by the housing authority within 10 working days from the issuing of the tenancy warning to the tenant.

5. The Minister may prescribe the types of extenuating circumstances as a consequence of which the period of 10 working days referred to in subsection (4) may, at the discretion of the chief executive of the local authority concerned and upon being satisfied that any such circumstance does apply, be extended upon application by or on behalf of the tenant for such further period as decided by that chief executive, but any such further period as so decided shall not, taken together with the 10 working days from the issuing of the tenancy warning concerned, exceed 20 working days from such issue.

6. On receipt of a valid review request the chief executive of the local authority concerned shall appoint as the reviewer of the tenancy warning concerned an officer or employee of a local authority who was not involved in the decision to issue the tenancy warning and who is senior in rank to the officer or employee who decided to issue that warning.

7. The reviewer shall review the decision to issue the tenancy warning as if the matter were being decided for the first time and on the basis of the information available to him or her.

8. A reviewer may make such enquiries and meet with any person, including the tenant, a household member and a member of An Garda Síochána, that he or she considers it appropriate to meet in the circumstances.

9. Except where the reviewer and the tenant otherwise agree in writing, the reviewer shall make a decision on the review within 20 working days of his or her appointment or, where—

(a) the tenant or a household member wishes to make oral representations,

(b) the reviewer wishes to meet the tenant or a household member as part of the review, or

(c) the tenant proposes a variation to the tenancy warning or is given the opportunity to comment or make representations (either orally or in writing) on a variation proposed by the reviewer to the tenancy warning, within 30 working days of his or her appointment.

10. A decision on a review request by a tenant shall—

(a) confirm the tenancy warning in its original terms,

(b) vary the tenancy warning in specified terms, or

(c) annul the tenancy warning, and shall state the reasons for doing so and the housing authority shall send a copy in writing of the reviewer's decision and reasons to the tenant.

11. Any variation to a tenancy warning proposed by the reviewer under subsection (10) (b), other than to correct any clerical error of a non-material nature, shall not be made without first giving the tenant an opportunity to comment or make representations on such a variation.

12. A tenant who has made a review request may, at any time before the review is completed, notify the housing authority in writing that he or she is withdrawing the review request but any such withdrawal is subject to subsection (13).

13. A reviewer may, notwithstanding the withdrawal of a review request by the tenant and where the reviewer is satisfied that it is in order to do so continue the review under this section as if the withdrawal had not been made and the housing authority shall notify the tenant in writing accordingly.

14. Where, in a review under this section, a member of An Garda Síochána or an officer of a housing authority states that he or she believes that a person is or has been engaged in anti-social behaviour, then, if the reviewer is satisfied that there are reasonable grounds for such belief and that another person would be deterred or prevented by violence, threat or fear from providing evidence in that regard, the reviewer may accept that statement as evidence of such anti-social behaviour.

15. In a review of a tenancy warning under this section, the housing authority concerned and the reviewer shall have due regard to protecting the identity of persons informing the authority or reviewer of the breach in circumstances where, in the opinion of the authority or the reviewer, not to do so—

(a) could render those persons or persons associated with them liable to violence, threat or fear as a consequence of so informing, or

(b) might otherwise have prevented those persons from so informing because of such violence, threat or fear.

S.11. Day that tenancy warning comes into effect

11.(1) Subject to subsections (2) and (3), a tenancy warning comes into effect on the second working day after the expiration of the period within which a request to review that warning could be received.

11.2 Where a tenancy warning was the subject of a review request under [section 10](#) and either

(a) the tenancy warning was not withdrawn before the day the review was completed, or

(b) [section 10](#) (13) applies to the tenancy warning, then, except where the tenancy warning

is annulled on review, the tenancy warning comes into effect on the second working day after a copy of the reviewer's decision is sent to the tenant for the purposes of section 10(10) and in the terms specified in the review decision.

11.3 Where a tenancy warning was the subject of a review request under section 10 and that request was withdrawn before the day the review was completed then, except where [section 10](#) (13) applies, the tenancy warning comes into effect on whichever of the following days last occurs:

(a) on the day determined in accordance with subsection (1) as if the request had not been made;

(b) on the second working day after the tenant notifies the housing authority in accordance with [section 10](#) (12) of the withdrawal.

S.12. Proceedings for possession of local authority dwelling

12. (1) Where a tenant or a member of his or her household breaches a tenancy agreement or rent-related obligation, the housing authority may, subject to subsection (3), apply (in this section referred to as a "possession application") to the District Court for a possession order under this section.

2. A housing authority may make a possession application in respect of a dwelling under this section notwithstanding the fact that there may be in progress a review of a tenancy warning that relates to a breach of a type referred to in subsection (1) that is of a similar nature to the breach to which the possession application relates.

3. Subject to paragraph (b), a housing authority shall, not less than 10 working days before the hearing by the District Court of a possession application under this section in respect of a dwelling, give the tenant notice in writing of—

(i) the authority's intention to make such an application,

(ii) the information to be included in the application, and

(iii) the date on which the authority intends to make the application.

(b) In a case where the housing authority is satisfied that the breach of the tenancy agreement to which the possession application relates has had or is having a significant or persistent detrimental effect on the quality of life of those in the locality of the dwelling, the authority shall, not later than at the time that it makes the possession application, give a copy of the possession application to the tenant.

4. A possession application shall set out—

(a) the grounds for the application, that is to say, the term of the tenancy agreement or rent-related obligation that is alleged to have been breached and the nature and occasion of the breach including the name of the person (if that name is readily available to the housing authority) who caused the breach and, where relevant, the significant or persistent detrimental effect of the breach on the quality of life of those in the locality of the dwelling,

(b) where any housing authority previously issued a tenancy warning to or in respect of a person within the period of 5 years prior to the date of the application and such person is the tenant of the dwelling to which the application relates or is a member of the tenant's household, the terms

of that warning and the outcome of any request for its review, irrespective of whether or not the breach the subject of that warning is of a similar nature to the breach to which the possession application relates,

(c) where the housing authority did not issue a tenancy warning in relation to the breach to which the application relates, a statement as to why the housing authority did not do so,

(d) where the housing authority did not issue a notice to the tenant under subsection (3) (a), a statement as to why the housing authority did not do so, and

(e) whether or not the situation specified in subsection (2) applies and, if it does apply, a statement as to why the housing authority is seeking the possession order while the tenancy warning is under review.

5. In setting out the grounds for a possession application under this section, a housing authority shall, where appropriate, have due regard to protecting the identity of persons who informed it of the breach in circumstances where, in the opinion of the housing authority, not to do so—

(a) could render those persons or persons associated with any of them liable to violence, threat or fear as a consequence of so informing, or

(b) might otherwise have prevented those persons from so informing because of such violence, threat or fear.

6. The grounds for a possession application referred to in subsection (4) may be provided by information on oath given by an officer or employee of the housing authority concerned duly authorised to give that information and, for the purposes of this section shall—

(a) form part of the possession application, and

(b) be served on the tenant concerned in accordance with subsection (3).

7. Where the tenant does not, without due cause, appear at the hearing of the possession application under this section and subject to subsection (8), the District Court may, where it is satisfied that there is a prima facie case for doing so, grant an order in the terms sought by the authority.

8. The District Court may, as it thinks fit, adjourn proceedings under this section for a period fixed by the Court, with or without imposing conditions as to the conduct of the tenant or a household member, payment of either or both rent and rent arrears, or otherwise.

9. (a) Without prejudice to subsection (7), the District Court shall make a possession order in respect of the dwelling the subject of a possession application under this section if it appears to the Court that the housing authority has grounds for the recovery of possession and that it is reasonable having regard to all the circumstances of the case to make the order.

(b) In considering the reasonableness of making a possession order under this section, the District Court shall, where appropriate, have regard to the following:

(i) the steps taken by the housing authority to secure the cessation or non- repetition of the breach of the term of the tenancy agreement or rent-related obligation, including the issue of any tenancy warning;

(ii) the response of the tenant to the steps taken by the housing authority referred to in subparagraph (i) ;

(iii) the effect, if any, that the breach of the tenancy agreement had or is having on the quality of life of those in the locality of the dwelling;

(iv) whether in the circumstances it is just and equitable to make the order notwithstanding that—

(I) the housing authority did not issue a tenancy warning in respect of the breach of the term of the tenancy agreement or the rent-related obligation,

(II) a tenancy warning issued by the housing authority in respect of a breach of the term of the tenancy agreement or the rent-related obligation of a similar nature to the breach to which the possession application relates is under review, or

(III) in accordance with subsection (3) (b), the housing authority did not issue a notice to the tenant under subsection (3) (a);and

(v) the proportionality of making a possession order under this section, having regard to the grounds for the possession application.

10. A possession order under this section shall specify the commencement date for the period during which the housing authority has the right to recover possession of the dwelling and the length of that period, which shall not be less than 2 months or more than 9 months, and shall have the effect of terminating the tenancy on the date that the housing authority recovers possession of the dwelling in pursuance of the order.

11. Where the District Court (or the Circuit Court on appeal) is satisfied that it is desirable, because of the nature or circumstances of the proceedings before it under this section or that it is otherwise in the interest of justice, the whole or any part of those proceedings may be heard otherwise than in public.

12. Where the grounds for a possession application are anti-social behaviour by a household member other than, where there is no joint tenant, the tenant, then the District Court—

(a) may decide that, as an alternative to determining the possession application, the possession application shall be deemed to be an application by the housing authority under section 3(2) of the Act of 1997 for an excluding order against that household member, notwithstanding that the provisions of paragraphs (a) and (b) of the said section 3(2) have not been complied with, and

(b) where the District Court so deems an application under subsection (3), shall require such notice (if any) to be given to the member of the household as the District Court considers appropriate in the circumstances.

13. In proceedings under this section, a document purporting to be the relevant tenancy agreement produced by the housing authority shall be prima facie evidence of the agreement and it shall not be necessary to prove any signature on the document.

14. The jurisdiction of the District Court in respect of an application under this section may be exercised, as regards the District Court, by a judge of the District Court for the time being assigned to the District Court district where the dwelling in relation to which that application was made is situate.

15. Where a judge of the District Court to whom subsection (14) relates is not immediately available, the jurisdiction of the District Court under that subsection may be exercised by any judge of the District Court.

16. Nothing in the Landlords and Tenant Acts 1967 to 2008 or the Housing (Private Rented

Dwellings) Acts 1982 and 1983 relating to the obtaining of possession of a dwelling or building or part thereof shall be deemed to affect this section.

S.18 Part 2 and amendment of Principal Act 18.1 Section 3 of the Principal Act is amended—

(a) in subsection (4) by substituting “, a notice mentioned in subsection (4) of section 117 of this Act or a notice mentioned in [section 15](#) of the *Housing (Miscellaneous Provisions) Act 2014*,” for “or a notice mentioned in subsection (4) of section 117 of this Act”, and

(b) by inserting the following subsection after subsection (7):

“In this section ‘notice’ includes a tenancy warning under [section 7](#), [8](#) or [9](#) of the *Housing (Miscellaneous Provisions) Act 2014* and—

(i) references (however expressed) in this section to the serving of a notice on a person includes the serving of any such tenancy warning to a person under the said [section 7](#), [8](#) or [9](#), as the case may be, and

(ii) subsection (5) shall apply to a tenancy warning affixed on or near the dwelling concerned in a manner prescribed under the said [section 7](#) (4), [8](#) (3) or [9](#) (3), as the case may be.”

2. Section 62 of the Principal Act is repealed.

S.19. Part 2 and amendment of Act of 1997 Section 1 of the Act of 1997 is amended—

(a) by inserting the following definition before the definition of “anti-social behaviour”:

“‘affordable house’ means an affordable house provided under Part V of the [Planning and Development Act 2000](#) or Part 2 of the [Housing \(Miscellaneous Provisions\) Act 2002](#) or an affordable dwelling purchased under affordable dwelling purchase arrangements under Part 5 of the [Housing \(Miscellaneous Provisions\) Act 2009](#) as the case may be;”,

(b) by substituting the following for the definition of “excluding order”:

“‘excluding order’ has, where the context admits or requires, the meaning assigned to it by subsection (1) or (2) of section 3;”,

(c) by substituting the following for the definition of “anti-social behaviour”:

“‘anti-social behaviour’ includes either or both of the following, namely—

(a) the manufacture, production, preparation, importation, exportation, sale, supply, possession for the purposes of sale or supply, or distribution of a controlled drug (within the meaning of the Misuse of Drugs Acts 1977 to 2007),

(b) any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, alarm, loss or fear to any person living, working or otherwise lawfully in or in the vicinity of a house provided by a housing authority under the Housing Acts 1966 to 2014 or Part V of the [Planning and Development Act 2000](#) or a housing estate in which the house is situate and, without prejudice to the foregoing, includes— violence, threats, intimidation, coercion, harassment or serious obstruction of any person. Behaviour which causes any significant or persistent impairment of a person’s use or enjoyment of his or her home or damage to or defacement by writing or other marks of any property, including a persons home.

(i) from entering or being in the vicinity of that house or any other specified house or being in or in the vicinity of any specified place or area, consisting of a place or area where one or more of the houses there are under the control and management of a housing authority, or

(ii) from doing all or any of the things referred to in subparagraph (i) unless specified conditions provided for by the order are complied with,

but no interim excluding order in respect of a respondent to whom this paragraph relates shall be made *ex parte* by virtue of subsection (3),

(c) in any other case—

(i) direct the respondent, if residing at the house in respect of which the application was made, to leave that house until further order of the court or until such other time as the court shall specify, and not re-enter it during the period that the order is in force, and

(ii) whether the respondent is or is not residing at the house in respect of which the application was made, prohibit the respondent—

(I) from entering or being in the vicinity of that house or any other specified house or being in or in the vicinity of any specified place or area, consisting of a place or area where one or more of the houses there are under the control and management of a housing authority, or

(II) from doing all or any of the things referred to in clause (I) unless specified conditions provided for by the order are complied with.”

19.(7) Section 5 of the Act of 1997 is amended by substituting the following subsection for subsection (1):

“(1) (a) A respondent who is under the age of 18 years and who contravenes an excluding order or an interim excluding order, as the case may be, commits an offence and is liable on summary conviction to a class D fine or, at the discretion of the court, to detention in a children detention school (as defined in section 3 of the [Children Act 2001](#)) for a period not exceeding 3 months, or to both.

(b) A respondent (other than a respondent to whom paragraph (a) relates) who contravenes an excluding order or an interim excluding order shall be guilty of an offence and shall be liable on summary conviction to a class B fine or, at the discretion of the court, to imprisonment for a term not exceeding 6 months, or to both.”

19.(8) Section 12 of the Act of 1997 is amended by deleting “, on complaint being made to him or her by the tenant or the housing authority,”.

19.(9) Section 14 of the Act of 1997 is amended by substituting the following subsection for subsection (1):

“(1) Notwithstanding anything contained in the Housing Acts 1966 to 2014, or in an allocation scheme made under [section 22](#) of the [Housing \(Miscellaneous Provisions\) Act 2009](#) , a housing authority may—

(a) refuse to allocate, or defer the allocation of, a dwelling to which subsection (1) of the said section 22 refers, to a household where—

(i) the authority considers that any member of the household is or has been engaged in anti-social behaviour or that an allocation to that household would not be in the interest of good estate management, or

(ii) the household fails to provide information, including information relating to members residing together or proposing to reside together as part of the household, which is requested by the authority and which the authority considers necessary in connection with an allocation,

or

(b) refuse to permit a person, or defer permitting a person, to take up or resume residence or enter or be in a dwelling to which section 22(1)(a) of the said Act refers where—

(i) the authority considers that the person is or has been engaged in anti-social behaviour or that such permission would not be in the interest of good estate management, or

(ii) the tenant of the dwelling or the person concerned fails to provide information that is requested by the authority and which the authority considers necessary in connection with deciding whether to give, refuse or defer such permission.”

19.(10) The Act of 1997 is amended by substituting the following section for section 14A:

19.(10) Authorisation to occupy caravan on site

14A. Notwithstanding anything contained in the Housing Acts 1966 to 2014, a housing authority may refuse or defer an authorisation to a person to occupy a caravan on a site where—

(a) the authority considers that that person or a member of his or her household is or has been engaged in anti-social behaviour or that the occupation by that person or household member of a caravan on the site would not be in the interest of good estate management, or

(b) that person fails to provide information, including information relating to persons residing or to reside with that person, which is requested by the authority and which the authority considers necessary in respect of the application for such authorisation.”

Intimidation

19.(11) The Act of 1997 is amended by substituting the following section for section 18:

18. (1) A person commits an offence if he or she causes or attempts to cause any threat, intimidation or harassment, coerces, obstructs, impedes, or interferes with—

(a) an officer or employee of a housing authority in respect of the exercise of a function of the authority by such officer or employee, or

(b) a member of the family or household of such an officer or employee in contemplation or as a consequence of the exercise of functions of the housing authority by the officer or employee, or

(c) any person who provides or is to provide evidence in any proceedings under this Act or *Part 2* of the *Housing (Miscellaneous Provisions) Act 2014*.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a class A fine or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both.”

Evidence

19.(12) The Act of 1997 is amended by: substituting the following section for section 21:

21. Where, in any proceedings under section 3, 3A, 4 or 9 of this Act or *Part 2* of the *Housing (Miscellaneous Provisions) Act 2014*, a member of An Garda Síochána or an officer or employee of a housing authority states that he or she believes that a person is or has been engaged in anti-social behaviour, then, if the Court is satisfied that there are reasonable grounds for such belief and that another person would be deterred or prevented by violence, threat or fear from providing evidence in that regard, the statement shall be evidence of such anti-social behaviour.”

20. Part 2 and amendment of Act of 2009

The Act of 2009 is amended by inserting the following section after section 29:

Revision of existing tenancy agreements

Where, by or under any provision of an Act (whether enacted before or after the passing of this Act), a term or condition of an existing tenancy agreement is affected or the need for a new term or condition arises by or under that provision, then, without prejudice to that provision duly having effect, the Minister may prescribe by regulations that a housing authority shall, in the interest of good estate management—

(a) revise the terms and conditions in a manner so prescribed, and

(b) give notice of that provision to the tenants concerned in a manner so prescribed.

For the purposes of this section, regulations made under section 3 may—

(a) require the revision by housing authorities concerned of the terms and conditions in

existing tenancy agreements—

(i) by substituting a prescribed term or condition for an affected term or condition,

(ii) by inserting a new term or condition, or

(iii) partly by so substituting and so inserting,

(b) require the re-issue of all or part of the terms and conditions of existing tenancy agreements to tenants concerned so as to take account of the matters referred to under paragraph (a), and

(c) prescribe the manner in which the tenants concerned are to be informed of the revision, which shall include writing to each tenant concerned and may include one or more of the following:

(i) by publication in a newspaper circulating within the administrative area of the housing authority concerned or, if a dwelling concerned is not situated in that area, in the area where it is situated;

(ii) by making it available on the Internet at the web address of the local authority concerned

APPENDIX B Complaint Form

 <small>Ceardaithe Chomraice Uille, Fhionn Offaly County Council</small>	Anti- Social Behaviour Complaint Form Offaly Local Authorities All information submitted on this form including the identity of the complaint will be treated in strict confidence and will not be disclosed to third parties unless in accordance with Offaly County Council's Data Retention Policy	Ref No.	
Date of Incident:		Date reported to Council:	
Your Name:			
Your Address:			
Your contact No:			
Form of complaint	By phone	By Letter	In person
Name of person you are complaining about:			
Address of person you are complaining about:			

Nature of Complaint (including times, dates, other witnesses - as detailed as possible)

Location Of Incident		
Reported to Gardai	Yes	No
Name of Garda Station		
Time reported at		
Name of Garda		
Name and position of person who recorded complaint		
Please note that Offaly County Council may contact An Garda Siochana or other relevant agencies during the course of investigation of this complaint.		

I hereby declare that the foregoing information I have supplied to Offaly Local Authorities is truthful and accurate.

SIGNATURE OF _____ DATE _____
COMPLAINANT

Complainant File No	
Respondent File No	
Gardaí Contacted to confirm incident	YES <input type="checkbox"/> NO <input type="checkbox"/>
Outcome of Gardaí report	
Respondent Interviewed	YES <input type="checkbox"/> NO <input type="checkbox"/>
Date of Interview	
Venue of Interview	
Interviewers	
Action taken (verbal / written warning, agreement reached/signed)	
Follow up action	
Outcome (Ongoing, Solved, For follow up)	

For Office Use Only

APPENDIX C – Tenancy Warning Letter

**Tenant Address,
County Offaly.**

**Housing Authority Official handling case:
Official's Direct Line:
Official's Email Address:**

Date:

Reference No.

Re.: Tenant Name & Address

**Statutory Warning Letter in respect of Anti-Social Behaviour
S7 Housing (Miscellaneous Provisions) Act 2014**

Dear **Sir/ Madam,**

We refer to the above.

Please note this is a tenancy warning letter issued pursuant to Section 7 of the Housing (Miscellaneous Provisions) Act 2014. We advise that you read this letter carefully as failure to comply with the within warning could have serious consequences.

When you signed your Tenancy Agreement with Offaly County Council (hereafter "the Council") on the */*/*, (signed copy of same enclosed herewith) you undertook to adhere to the conditions therein, including the social behaviour conditions set out in Section C of the Tenancy Agreement. In particular you agreed to refrain from:

- engaging in anti-social activity or behaviour;
- causing nuisance or engaging in conduct likely to cause annoyance or disturbance to neighbours;
- allowing other occupiers of, or visitors to, the above dwelling to behave within it, or in its vicinity, in a way that is anti-social or to cause a nuisance.

It has come to the Council's attention that you (*or a member of your household or a visitor*) has breached a condition set out in Section C of the Tenancy Agreement as follows:

identify the precise term or terms breached, the nature of that breach, including the name of the household member (if that name is readily available to the housing authority) who caused that breach, the occasion and dates of the breach and, where relevant, the significant or persistent detrimental effect of the breach on the quality of life of those in the locality of the dwelling to which the Tenancy Agreement relates.

You are required to cease this breach of the Tenancy Agreement (*or to undertake such specified actions*) with immediate effect in order to prevent any further detrimental effects of the breach from occurring (*or if a household member or visitor has caused the breach to ensure that he or she ceases it with immediate effect*).

If the breach continues during, or is repeated within 12 (twelve) months of this tenancy warning letter coming into effect, the Council may either:

- i. apply under Section 12 of the Housing (Miscellaneous Provisions) Act 2014 to recover possession of the dwelling, or
- ii. apply to the District Court for an excluding order against the household member who caused or is causing the breach referred to above.

Further note that the Council may during the period of 3 (three) years following a tenancy warning coming into effect, take the tenancy warning into account when considering whether:

- i. to consent, under subsection (12) of section 90 of the Housing Act 1996, to a sale of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term, where the grounds for refusal would be those set out in subparagraph (a)(ii) of that subsection,
- ii. to consent, under subsection (3) of section 48 of the Housing (Miscellaneous Provisions) Act 2009, to a sale, during the charged period, of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term, where the grounds for refusal would be those set out in paragraph (b) of that subsection,
- iii. to consent, under subsection (4) of section 76 of the Act of the Housing (Miscellaneous Provisions) Act 2009, to a sale, during the charged period, of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term or specified terms, where the grounds for refusal would be those set out in paragraph (b) of that subsection,
- iv. to consent, under subsection (3) of section 29 of the Housing (Miscellaneous Provisions) Act 2014, to a sale, during the charged period, of a house to the person identified in the tenancy warning as causing the breach of the specified term or specified terms, where the grounds for refusal would be those set out in paragraph (b) of that subsection,
- v. to refuse, under section 14(2) of the Housing (Miscellaneous Provisions) Act 1997, to sell a dwelling to—
 1. the tenant (within the meaning of Part 4 of the Housing [Miscellaneous Provisions] Act 2009 or to whom Part 3 applies) concerned,
 2. the eligible household (within the meaning of Part 3 or 5 of the Housing [Miscellaneous Provisions] Act 2009 concerned, or
 3. the person concerned (in a case to which section 90 of the Housing Act 1966 relates), OR

- vi. to refuse, under section 14(1) of the Housing (Miscellaneous Provisions) Act 1997, to allocate a dwelling, or to defer the allocation of it, to the tenant or to the household member identified in the tenancy warning as causing the breach of the specified term.

Should you not agree that a breach of your Tenancy Agreement has occurred in the terms set out in this letter, you may request a review of this tenancy warning pursuant to Section 10 of the Housing (Miscellaneous Provisions) Act 2014. The request for a review must be in writing and must be received by the Council within 10 working days from the issuing of this tenancy warning. You may contact the Administrative Officer for Housing in Offaly County Council should you wish to avail of this right.

Yours faithfully,

Offaly County Council